

16.09.2025
Item No.04
Court No.11
KCP

**FMA 403 of 2025
with
IA No. CAN 1 of 2025**

**Mahadeb Bhattacharya
- Versus -
The State of West Bengal & Ors.**

Mr. Asim Hati,
Ms. Nandini Sharma,
Mr. Antariksha Karmakar.
...for the appellant/writ petitioner

Mr. Suman Dey,
Md. Aslam Khan.
...for the State

Affidavit-of-service, as filed, be kept on record.

The appeal is from an order dated 14th January, 2025, dismissing the writ petition filed by the appellant herein, on the ground of delay and in seeking to resurrect a stale claim.

The appellant/writ petitioner was employed in the Rabindra Smriti (S) Vidyaniketan as an Assistant Teacher. The appellant/writ petitioner was suspended some time in 2002. Pursuant to the notification of 16th June 2003, on June 19th, 2003, the appellant/writ petitioner applied for the post of Assistant Head Master. Finding no response to this application, a representation was also made to the higher authorities on 23rd June, 2003.

However, on 23rd July, 2003, the respondent no.9 was appointed to the post of Assistant Head Master. The appellant/writ petitioner had approached this Court challenging the selection of the respondent no.9 to the post of Assistant Head Master, rather belatedly, only in 2008. It is this writ petition which was dismissed by the impugned order of the learned single Judge on 14th January, 2025.

In the meantime on 31st January, 2019, the appellant/writ petitioner had also retired from service. The appellant/writ petitioner had in a second writ petition, sometime in 2012 approached this Hon'ble Court and had indeed obtained an order dated 17th April, 2013 directing the respondents to allow the appellant/writ petitioner to resume his duties in respect of an Assistant Teacher of the said school.

We have heard the learned counsel appearing for the respective parties and gone through the records.

Mr. Hati, learned advocate appearing for the appellant/writ petitioner submitted that from the records it appears that there has indeed been a delay of more than five years, initially in approaching the Court, as the writ petition was filed in 2008. The matter was kept pending and was dismissed on 14th January, 2025.

It is also reflected from the pleadings in the writ petition, that no explanation was rendered by the appellant/writ petitioner regarding the delay in approaching the Court.

Hence, the learned Judge has rightly refused to entertain the writ petition on the ground of unexplained and inordinate delay. In addition thereto, a third party right has been created, insofar as the respondent no.9 is concerned, having been appointed to the post of Assistant Head Master since 23rd July, 2003. In the said conspectus, we are unable to entertain the present appeal. There is no infirmity in the order of the learned single Judge.

Hence, the appeal and the connected application are dismissed.

There shall, however, be no order as to costs.

Urgent photostat certified copy of this order, if applied for, be given to the learned advocates for the parties.

(Reetobroto Kumar Mitra, J.) (Tapabrata Chakraborty, J.)